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November 7, 2003

Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Ex Parte* Presentation – Revision of the Commission's Rules to
Ensure Compatibility With Enhanced 911 Emergency Calling
Systems; CC Docket No. 94-102, IB Docket No. 99-67.

Dear Ms. Dortch:

Yesterday morning, November 6, 2003, the undersigned, James Blaszak, and Susan Gately, representing the Ad Hoc Telecommunications Users Committee, met with Matthew Brill, Senior Legal Advisor to Commissioner Kathleen Abernathy, to discuss the proceeding identified above.

The participants discussed Ad Hoc's position in this proceeding as reflected in its written comments filed in this docket and the outline attached hereto, a copy of which was left with Mr. Brill.

A copy of the attached outline was also hand-delivered to the offices of the following: Mr. Christopher Libertelli, Senior Legal Advisor to Chairman Michael Powell; Mr. Dan Gonzalez, Senior Legal Advisor to Commissioner Kevin Martin; Mr. Jordan Goldstein, Senior Legal Advisor to Commissioner Michael Copps; and Ms. Lisa Zaina, Senior Legal Advisor to Commissioner Jonathan Adelstein.

This letter is filed in accordance with Section 1.1206(b) of the Commission's Rules, 47 C.F.R. § 1.1206(b).

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew M. Brown", followed by a horizontal flourish.

Andrew M. Brown

Ad Hoc Telecommunications Users Committee
Meeting with Matthew Brill, Legal Advisor to Commissioner Abernathy
Re: E911/MLTS Issues in CC Docket 94-102
11:30 a.m. -- November 6, 2003

- **The E911/MLTS Issue**

- FCC seeking information about “appropriate role” for it (if any) in requiring MLTS owners/operators to provide specific call-back and location information.
- Determination of the need and appropriate level of detail required for call-back and location information in large corporate environments (high rises, campuses, etc.) is essentially an issue of workplace safety standards.
- FCC lacks the specialized agency expertise necessary to promulgate effective workplace safety regulations that: (i) have sufficient granularity to achieve desired results; and (ii) balance costs/benefits adequately.
- Admirable public safety goals and homeland security issues may be obfuscating threshold issue of whether FCC has adequate expertise and legal authority to regulate MLTS owners/operators and to promulgate workplace safety regulations.

- **Ad Hoc’s Interest**

- Representative organization of corporate end-users with telecom networks that support tens of thousands of employees.
- Diversity of members’ workplaces creates a “One Size Fits All” problem if regulations are promulgated by an agency with inadequate resources and expertise to examine multitude of individual workplace configurations and safety requirements.
- MLTS regulations imposed solely from a communications technology perspective (*i.e.*, is it technologically feasible?) could impose significant costs without commensurate employee/public safety/domestic security benefits.

- **OSHA and State Counterparts Have Expertise, Resources and Agency Mission to Regulate Workplace Safety**

- Experience analyzing and promulgating workplace safety regulations generally (detailed workplace safety regulations are already in place).

- Expertise and Resources to evaluate specific E911/MLTS Proposals
 - Appropriate number of square feet per ANI/ALI (40,000? 400,000? 4,000,000?).
 - Adequacy of alternative signaling capabilities.
 - Compatibility with existing OSHA regulations regarding reporting of emergencies and emergency exit plans.
- Specific grant of jurisdiction by Congress (or relevant state legislature) and explicit agency mission to address workplace safety.
- **State Legislatures and Local Municipalities Better Placed to Make Decisions on Granular Issues Associated with Regulations**
 - Ability to evaluate whether
 - individual PSAPs have the technological capabilities and human resources to receive, process and act upon transmitted information required by regulations.
 - local emergency response times justify requiring transmission of E911 information.
 - costs imposed on entities are justified given likely benefits from regulations.
 - employee safety would improve in industries specific to the locality.
 - Decision to enact or not to enact legislation reflects choice and priorities of local jurisdictions.
 - Some states have already enacted E911 legislation.
 - Others have enacted no such legislation.
 - Model legislation currently available for consideration by state legislatures and municipalities.
- **FCC Lacks Jurisdiction to Impose Regulations on MLTS Operators**
 - No jurisdiction granted under Communications Act
 - No jurisdiction over employers conferred by Title II or Title III.

- Subject matter jurisdiction under §§ 1 and 4, while general, is not unlimited.
- No personal or subject matter jurisdiction granted under Wireless Communications and Public Safety Act of 1999
 - Does not authorize FCC to expand regulations to MLTS regulations as suggested by some commenters.
 - Act specifically prohibits FCC from imposing costs.
- No jurisdiction *contemplated* under pending legislation.
 - Enhanced 911 Emergency Communications Act of 2003 [S.1250].
 - E911 Implementation Act of 2003 [H.R. 2898].